

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RHONDA L. WARNKE and DEPARTMENT OF COMMERCE,
BUREAU OF THE CENSUS, Stover, MO

*Docket No. 02-1442; Submitted on the Record;
Issued October 8, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained a recurrence of disability beginning October 23, 2001 due to her July 20, 2000 employment injury.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to establish that she sustained a recurrence of disability beginning October 23, 2001 due to her July 20, 2000 employment injury.

On August 3, 2000 appellant, then a 42-year-old enumerator, filed a traumatic injury claim, alleging that on July 20, 2000 she hurt her back and experienced pain and numbness in the right leg when she fell and slid down a hill.¹

By letter dated March 9, 2001, the Office of Workers' Compensation Programs accepted appellant's claim for a lumbosacral strain that ceased on December 25, 2000 due to a nonwork-related intervening event.

On June 25, 2001 appellant filed a claim for compensation. In an August 30, 2001 letter, the Office advised appellant that she was not eligible for benefits for this claim after December 24, 2000 because she sustained a nonwork-related intervening injury on that date. The Office further advised appellant that, if she believed her current condition was due to her July 20, 2000 employment injury, she should submit a recurrence claim form and medical evidence supportive of this claim.

On December 7, 2001 appellant filed a claim alleging that she sustained a recurrence of disability on October 23, 2001. By letter dated December 18, 2001, the Office advised appellant to submit medical evidence supportive of her claim.

¹ The record reveals that appellant was terminated by the employing establishment on August 26, 2000.

In a January 25, 2002 decision, the Office found that appellant did not submit any medical evidence to establish that she sustained a recurrence of disability beginning October 23, 2001.²

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.³ This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.⁴ Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

In this case, the Office advised appellant of the medical opinion evidence she needed to submit to establish a recurrence of disability. Prior to the Office's January 25, 2002 decision, appellant had not submitted a narrative medical opinion from her physician explaining how her disability for work beginning October 23, 2001 was causally related to her July 20, 2000 employment injury. Because appellant has submitted no such reasoned narrative opinion from her attending physician, she has not met her burden of proof.

² The Board notes that subsequent to the Office's January 25, 2002 decision, the Office received medical evidence. The Board, however, cannot consider evidence that was not before the Office at the time of the final decision. See *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35 (1952); 20 C.F.R. § 501.2(c)(1). Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a). 20 C.F.R. § 501.2(c).

³ *Ronald C. Hand*, 49 ECAB 113 (1997).

⁴ *Helen K. Holt*, 50 ECAB 279 (1999).

⁵ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

The January 25, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 8, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member